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EXAMINER

MULLER, BRYAN R

ART UNIT

PAPER NUMBER

3723

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

**Office Action Summary**

Application No.

10/601,725

Applicant(s)

PETRONE ET AL.

Examiner

Bryan R. Muller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/20/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jesswein (6,010,299) in view of Hamlin (2,643,779) and Mortimore (Pub. No. 2001/0026756).

3. Jesswein discloses a lift apparatus that is inherently capable of supporting motorcycles and small vehicles comprising a ground engaging base frame (1) having a pair of spaced apart upwardly extending posts (7) and a pair of generally horizontally extending legs (2) with ground engaging roller assemblies attached to their outer ends, said legs each having an inner end adjacent one of said posts and an outer end, said leg inner ends being spaced a first predetermined distance apart and said leg outer ends being spaced a second predetermined distance apart, a pair of parallelogram linkages, each said linkage having an upper link, a lower link extending generally parallel to said upper link an outer link, and an inner link formed by a portion of an associated one of said posts, said upper link being connected by first and second pivot means (each including an axle about which, at least one of said links pivots) to said inner and outer links respectively, said lower link being connected by third and fourth pivot means (each including an axle about which, at least one of said links pivots) to

said inner and outer links respectively, a support means including a pair of spaced apart support arms attached to said outer links capable of supporting a vehicle and a manually actuated hydraulic actuator that acts as an actuator means having a lower end pivotally connected to said base frame and an upper end pivotally connected to said lower links whereby extension of said actuator means raises said vehicle support means between a lowered position for engaging and disengaging from a vehicle and a fully raised position. The lower end of the actuator is pivotally attached to the base of the hydraulic jack (6), which is inherently attached to the base because the base of the jack never moves with relation to the base frame of the lift during operation, therefore, the actuator is indirectly attached to the base frame through the base of the hydraulic jack. Also, the actuator is inherently connected (based on the definition of connect of "put together two or more pieces" from *WordNet* ® 2.0, © 2003 Princeton University) to the push link through the support that is inherently pivotally connected to the end of the actuator (must be pivotal connection because the support is shown at different angles relative to the actuator in figures 1 and 2) and the support is inherently connected (based on the definition of connect of "put together two or more pieces" from *WordNet* ® 2.0, © 2003 Princeton University ) to the push link because the support never moves with relation to the push link during operation of the lift, therefore, the actuator is indirectly pivotally connected (based on the definition of connect of "put together two or more pieces" from *WordNet* ® 2.0, © 2003 Princeton University ) to the lower links through the support that is pivotally connected (based on the definition of connect of "put together two or more pieces" from *WordNet* ® 2.0, © 2003 Princeton University ) to

the actuator and connected (based on the definition of connect of "put together two or more pieces" from *WordNet* ® 2.0, © 2003 Princeton University ) to the push link which is pivotally connected (based on the definition of connect of "put together two or more pieces" from *WordNet* ® 2.0, © 2003 Princeton University ) to the lower links. Although it is not disclosed by Jesswein that the base of the hydraulic jack is connected to the base frame or that the support on the actuator is connected to the push link, it would have been obvious to provide additional securing means to connect these parts, respectively, because they are both parts that directly support the load and an accidental movement of the parts with relation to each other could result in the load being dropped, which could injure or kill a person working nearby. Jesswein, however, does not disclose that the second predetermined distance between leg outer ends is greater than said first predetermined distance between leg inner ends or that the base frame includes a pair of ground engaging caster assemblies or that the support means is attached at one end to a lower end of each of said outer links and has a free end extending away from said linkages. Hamlin discloses an automobile transmission handling jack that is formed to have a stable base (col. 1, lines 23-25) consisting of a base with a pair of generally horizontally extending legs, said legs each having an inner end and an outer end, said leg inner ends being spaced a first predetermined distance apart and said leg outer ends being spaced a second predetermined distance apart greater than said first predetermine distance. Hamlin also discloses that the base is caster-wheel-mounted for movability (col. 2, line 17). Mortimore discloses a vehicle lift using parallel linkages and a manually operated actuator wherein the vehicle support

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means (16) is attached at one end to a lower end of an outer link (60) by means of the lift arm (82), and has a free end (102) extending away from said linkages and includes a pair of spaced apart support arms (100 and 102). The arrangement disclosed by Mortimore allows the support means to be positioned closer to the ground, thus making it easier to place a vehicle on the support without needing to lift the vehicle into place. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to space the outer end of the legs in the invention of Jesswein further apart than the inner ends to increase stability of the base structure and to replace the base mounted wheels of Jesswein with casters to increase the movability of the lifting apparatus as taught by Hamlin. It also would have been obvious to replace the support means of Jesswein with the support means of Mortimore and connect the support means to the lower end of the outer linkages to allow for easy placement of a vehicle on the support means.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jesswein ('299), Hamlin ('779) and Mortimore ('756) as applied to claim 1 above and further in view of Butts ('203).

5. Jesswein, Hamlin and Mortimore disclose a lifting apparatus as discussed supra but fail to provide padding on the load supporting surface of the support arms. Butts discloses a jack for light aircraft and provides a resilient pad to the aircraft engaging portion of the jack to distribute loading on the aircraft surfaces and protect the aircraft from damage. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the load supporting surfaces of the support

arms in Jesswein's invention to distribute loading and prevent damage to the motorcycle or small vehicle being lifted by the lifting apparatus.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jesswein ('299), Hamlin ('779) and Mortimore ('756) as applied to claim 1 above and further in view of Rishovd ('183).

7. Jesswein, Hamlin and Mortimore disclose a lifting apparatus as discussed supra but fail to provide handles attached to an upper end of each post. Rishovd discloses a vehicle jack with a main upright post that has a handle attached to either side near the top of the post. Rishovd teaches that the jack is wheeled into the proper lifting position relative to a vehicle by means of the handles mounted near the top of the cylinder (col. 3, lines 26-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide each of the posts in Jesswein's invention with handles in order for the invention to be properly positioned.

8. Claims 8-12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Styles (5,356,214) in view of West (5,372,353), Hamlin ('779) and Mortimore ('756).

9. In reference to claim 8, Styles discloses a lift apparatus comprising a ground engaging base frame having a generally horizontally extending central beam (18) with a pair of spaced apart upwardly extending posts (68) and a pair of generally horizontally extending legs (73) fixedly attached to said central beam, said legs each having an inner end adjacent one of said posts and an outer end, said leg inner ends being

spaced a first predetermined distance apart and said leg outer ends being spaced a second predetermined distance apart, a pair of parallelogram linkages (44 and 46), each said linkage having an upper link (44), a lower link (46) extending generally parallel to said upper link, an outer link (28), and an inner link formed by a portion of an associated one of said posts, said upper link being connected by first and second pivot means (80) to said inner and outer links respectively, said lower link being connected by third and fourth pivot means (80) to said inner and outer links respectively, a support means (32) attached to said outer links and an actuator means (74) having a lower end indirectly pivotally connected to said base frame through the upwardly extending posts, and an upper end pivotally connected to said lower links whereby extension of said actuator means raises the support means between a lowered position for engaging and disengaging from a vehicle and a fully raised position. Styles however, fails to disclose that the horizontally extending central beam has an associated one of a pair of generally vertically extending intermediate beams fixedly attached at each end thereof, each said intermediate beam having an upper end with an associated one of a pair of generally horizontally extending end beam beings fixedly attached thereto, that the second predetermined distance between the outer ends of the legs is greater than the first predetermined distance between the inner ends of the legs, or that the support means may be a vehicle support. West discloses a lift wherein the base comprises a horizontally extending central beam (86) having an associated one of a pair of generally vertically extending intermediate beams (36) fixedly attached at each end thereof, each said intermediate beam having an upper end with an associated one of a pair of



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generally horizontally extending end beam (34) beings fixedly attached thereto with casters attached to the lower side of each of the end beams. The arrangement provided by West allows for the base frame to be closer to the ground, thus lowering the center of gravity and making the lift more stable while allowing space between the frame and the ground for casters with larger diameter wheels to make the apparatus more easily maneuverable. Hamlin discloses the automobile transmission handling jack, as discussed supra having a stable base (col. 1, lines 23-25) that is caster-wheel-mounted for movability (col. 2, line 17). Mortimore discloses the vehicle lift, as discussed supra that allows the support means to be positioned closer to the ground, thus making it easier to place a vehicle on the support without needing to lift the vehicle into place. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the central beam of Styles with a pair of vertically extending intermediate beams fixedly attached at each end thereof, each said intermediate beam having an upper end with an associated one of a pair of generally horizontally extending end beam beings fixedly attached thereto with casters attached to the lower side of each of the end beams, as taught by West, to improve stability and make the lift easier to maneuver. It also would have been obvious to make the distance between the outer ends of the legs greater than the distance between the inner ends of the legs to further improve stability, as taught by Hamlin, and to replace the support member of Styles with that of Mortimore to allow the lift of Styles to lift vehicles such as motorcycles from a low point on the ground that would have made it easier to load a vehicle onto the support.

10. In reference to claim 9, the lift of Styles provides an axle (80) for each of the first through fourth pivot means.

11. In reference to claim 10, the obvious alteration to the base of Styles, as taught by West, provides casters (28) to the outer ends of each of the end beams to allow for maneuverability.

12. In reference to claim 11, the lift of Styles provides for ground engaging roller assemblies attached to the outer end of the legs.

13. In reference to claim 12, the obvious alteration to the support of Styles, as taught by Mortimore, includes a pair of spaced apart support arms (100 and 102).

14. In reference to claim 15, the lift of Styles provides a manually actuated hydraulic actuator.

15. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Styles (5,356,214), West (5,372,353), Hamlin ('779) and Mortimore ('756) as applied to claim 8 above and further in view of Butts ('203).

16. The combination of Styles, West, Hamlin and Mortimore discloses the lifting apparatus as discussed supra but fails to provide padding on the load supporting surface of the support arms. As discussed supra, Butts discloses a jack that provides a resilient pad to the engaging portion of the jack to distribute loading protect from damage. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the load supporting surfaces of the support

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arms in the combination of Styles, West, Hamlin and Mortimore to distribute loading and prevent damage to the motorcycle or small vehicle being lifted by the lifting apparatus.

17. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Styles (5,356,214), West (5,372,353), Hamlin ('779) and Mortimore ('756) as applied to claim 8 above and further in view of Rishovd ('183).

18. The combination of Styles, West, Hamlin and Mortimore discloses the lifting apparatus as discussed supra but fails to provide handles attached to an upper end of each post. Rishovd discloses the vehicle jack, as discussed supra with a main upright post that has a handle attached to either side near the top of the post. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide each of the posts in combination of Styles, West, Hamlin and Mortimore with handles in order for the invention to be properly positioned.

19. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Styles (5,356,214), West (5,372,353), Hamlin ('779) and Mortimore ('756) as applied to claims 8-12 and 15 above and further in view of Butts ('203) and Rishovd ('183).

20. The combination of Styles, West, Hamlin and Mortimore discloses the lifting apparatus as discussed supra but fails to provide padding on the load supporting surface of the support arms or provide handles attached to an upper end of each post. Butts and Rishovd disclose the jacks discussed supra and advantages to providing padding on the load supporting surface of the support arms and handles attached to an

upper end of each post. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the combination of Styles, West, Hamlin and Mortimore with padding on the load supporting surfaces of the support arms to protect the vehicles being lifted, as taught by Butts, and to provide handles on the to both upright posts to allow the lifting apparatus to be easily positioned, as taught by Rishovd.

### ***Response to Arguments***

21. Applicant's arguments filed 5/09/2005 have been fully considered but they are not persuasive.

22. In response to applicant's argument that Jesswein (6,010,299) and Styles (5,356,214) are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both references relate to parallelogram linkage lift structures which are in the same field of endeavor as the applicants claimed invention in that the only difference is the intended use and the end effector of the lift apparatus that is meant to engage the object intended to be lifted.

23. In response to the applicant's argument that the actuator of Jesswein does not have a lower end pivotally connected to the base frame and an upper end pivotally connected to the lower links, the lower end of the actuator is pivotally connected to the

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base of the hydraulic jack (6), which is connected (based on the definition of connect of "put together two or more pieces" from *WordNet* ® 2.0, © 2003 Princeton University) to the base frame and the top end of the actuator is pivotally connected to the support piece, which is connected (based on the definition of connect of "put together two or more pieces" from *WordNet* ® 2.0, © 2003 Princeton University) to the push link (24), which is pivotally connected to the lower links, as discussed supra. Thus, the actuator is indirectly pivotally connected to the base frame and the lower links.

24. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the reason to combine Jesswein and Hamlin is to improve stability of the base by altering the legs of Jesswein to diverge in a manner similar to Hamil. It would still be possible for the jack supports to be adjustable to accommodate different length jacks (one example would be if the jack supports rested upon the top surface of the legs).

25. In response to the argument that the Mortimore platform does not have one end attached to a lower end of the outer link or that the platform does not have a free end extending away from the linkages. The platform is indirectly attached to the lower link

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through lift arm 82, as discussed supra and the outer ramp (102) of the support platform is a free end because it is not attached to any other support means and is free to move.

26. In response to the argument that the actuator of Styles is not connected to the base frame, it is pivotally connected to the posts, as stated by the applicant, which are connected to the base frame, thus, the actuator is indirectly pivotally connected to the base frame.

27. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of Styles and West would be advantageous because lowering the base frame, as taught by West, would improve the stability of the Styles apparatus because the lower the point that the upright links (68) attach to the base frame, the more stable the apparatus would be, which is important to a lifting structure that will have a large weight, when engaged, at a raised position. It also would be advantageous to make room for larger caster because larger wheels would allow the apparatus to be more easily maneuvered on any surface and the base structure of West would allow the larger casters while maintaining the lowered center of gravity due to a low connection point between the upright members (68) and the base frame (18) .

28. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation for replacing the base of Styles with the base of Hamil is that the diverging legs of Hamil would provide **more** stability than the base of Styles and would allow the base to fit around larger objects than the 55 gallon drums as disclosed by Styles.

29. In response to the argument that there is no teaching that the Styles mixer could be converted to lift motorcycles and small vehicles, as discussed supra, both the Styles lift and the applicant's claimed invention are parallelogram linkage lifting apparatus' and the only difference is the intended use and the different end effector, so it would have been obvious to anyone of ordinary skill in the art that the lift apparatus would be capable of lifting any object if the end effector was changed or altered.

30. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*

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*Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of the mixer support structure of Styles or the lifting device of Jesswein with a truck transmission of West, an automobile transmission jack of Hamlin, a van mounted lift of Mortimore, a jack for light aircraft of Butts and/or a vehicle jack of Rishovd is suggested because all of the apparatus are lifting devices and the teachings taken from each of the secondary references are generic to all lifting devices and could be applied to any lift, regardless of intended use.

### ***Conclusion***

31. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan R. Muller whose telephone number is (571) 272-4489. The examiner can normally be reached on Monday thru Thursday and second Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BRM *BRM*  
7/11/2005



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